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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,535

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Roelof Steunenberg

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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EXAMINER

PATEL, BHARAT C

ART UNIT

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3724

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,535	<b>Applicant(s)</b> STEUNENBERG ET AL.	
	<b>Examiner</b> BHARAT C. PATEL	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/28/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2,4 and 6-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/10/09 has been entered.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "41" in Fig. 4 has been used to designate both an eccentric portion and side portion. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities: Section headings are not clearly defined. Arrangement and Contents of the Specification  
The following order of arrangement is preferable in framing the specification. See also MPEP § 608.01(a). Each of the lettered items should appear in upper case, without underlining or bold type, as section headings.

(A) Title of the invention. (See MPEP § 606).

(B) Cross-reference to related applications. (See MPEP § 201.11).

(C) Statement regarding federally sponsored research or development. (See MPEP § 310).

(D) The names of the parties to a joint research agreement (see 37 CFR 1.71(g)).

(E) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on compact disc and an incorporation-by-reference of the material on the compact disc. For computer listings filed on or prior to March 1, 2001, reference to a "Microfiche appendix" (see former 37 CFR 1.96(c) for Microfiche appendix).

(F) Background of the invention. (See MPEP § 608.01(c)).

(1) Field of the invention.

(2) Description of related art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98.

(G) Brief summary of the invention. (See MPEP § 608.01(d)).

- (H) Brief description of the several views of the drawing. (See MPEP § 608.01(f)).
- (I) Detailed description of the invention. (See MPEP § 608.01(g)).
- (J) Claim(s) (commencing on a separate sheet). (See MPEP § 608.01(i)-(p)).
- (K) Abstract of the Disclosure (commencing on a separate sheet). (See MPEP § 608.01(b)).
- (L) Sequence Listing, if on paper (see 37 CFR 1.821 through 1.825).

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The specification discloses reference part 38 as a coupling member per Fig. 2, while the claim language recites a coupling member that translates a rotating motion of the actuator into a periodical reciprocating motion. This would infer to be a gear system 71. Also, the recitation in lines 5-7 of claim 1, “the shaving head may pivot in a plane perpendicular to a length of the base portion about the pivot axis relative to the base portion but may not pivot in a plane parallel to the length of the base portion” is not specific and definite. The use of “may or may not” does not define specific claim of the invention. Therefore, the Examiner considers that the Applicant fails to

Art Unit: 3724

particularly point out and distinctly claim the subject matter which the applicant regards as his invention .

### ***Double Patenting***

6. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

7. Claims 1, 3 and 5 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-5 of prior U.S. Patent No. 7,251,894 of Zuidervaart et al.

8. This is a double patenting rejection. Claims 1, 3 and 5 directed to the same invention as that of claims of commonly assigned U.S. Patent No. 7,251,894 of Zuidervaart et al. The issue of priority under 35 U.S.C. 102(g) and possibly 35 U.S.C. 102(f) of this single invention must be resolved.

Since the U.S. Patent and Trademark Office normally will not institute an interference between applications or a patent and an application of common ownership (see MPEP Chapter 2300), the assignee is required to state which entity is the prior inventor of the conflicting subject matter. A terminal disclaimer has no effect in this situation since the basis for refusing more than one patent is priority of invention under 35 U.S.C. 102(f) or (g) and not an extension of monopoly.

Failure to comply with this requirement will result in a holding of abandonment of this application.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3 and 5, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hawes 2006/0037197.

Re claim 1, Hawes discloses a device 1 for shaving hairs growing from skin per Fig. 1, comprising a base portion 13 having a grip 12, a shaving head 2 carrying at least one blade-shaped cutting member 4 having at least one cutting edge per para [0029], lines 1-8, a pivot axis at the connecting end of the arms 9, journaled in the opposite ends of the frame 2, wherein the base portion 13 is pivotably coupled to the shaving head 2 such that the shaving head may pivot in a plane perpendicular to a length of the base portion about the pivot axis relative to the base portion but may not pivot in a plane parallel to the length of the base portion 13, wherein the length of the base portion extends further than a width of the base portion per para [0029], lines 13-23 per Figs. 1-2, and an actuator 24 coupled to the cutting member 4 through a coupling member 14 that translates a rotating motion of the actuator 24 into a periodical reciprocating motion of the cutting member 4 for effecting the periodical reciprocating motion of the cutting member relative to the base portion 13, and wherein the periodical reciprocating motion

Art Unit: 3724

of the cutting member 4 is also a periodical reciprocating motion of the cutting member 4 relative to the shaving head 2. It should be noted that the Applicant has not specifically defined and claimed the structure of the coupling member with respect to the actuator and how the periodical reciprocating motion of the cutting member

Re claim 3, Hawes discloses that the periodical of the cutting member 4 motion has a motion component which extends substantially parallel to a main cutting direction of the cutting member 4 per para [0012], lines 1-6, the pivot axis at the connecting end of the arms 9, journalled in the opposite ends of the frame 2, extending substantially perpendicularly to the main cutting direction per Figs. 1-5.

Re claim 5, Hawes discloses that the cutting member 4 comprises a single straight cutting edge per Figs. 1-2 & 5-6, the pivot axis at the connecting end of the arms 9, journalled in the opposite ends of the frame 2, extending parallel to the cutting edge and, seen in the main cutting direction, being arranged in front of the cutting edge of the cutting member 4 per Figs. 1-5. It should also be noted that it is old and well known in the art to have pivot axis arranged in front of the cutting edge of the cutting member as taught by Gilder 6,502,318.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 3 and 5 have been considered but are moot in view of the new ground(s) of rejection under 35 U.S.C. 102(b) as being anticipated by Hawes 2006/0037197.



***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davey (5794342), Gilder (6502318) and Metcalf (5299354) teach various types of razors with pivot axis arranged in front of the cutting edge.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BHARAT C. PATEL whose telephone number is (571)270-3078. The examiner can normally be reached on Monday-Friday, alt. Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 24502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bharat C Patel/  
Examiner, Art Unit 3724  
December 9, 2009.

Application/Control Number: 10/581,535  
Art Unit: 3724

Page 9

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